

**PERTAINING TO THE REPEAL OF RESOLUTION NOS. 29-15 AND 02-14 AND
ADOPTION OF AN AMENDED WATER AND SEWER ALLOCATION POLICY**

WHEREAS, a water and sewerage allocation policy was adopted by Resolution No. 29-15, and 02-14, which modified provisions of prior Resolutions Nos. 37-83, 42-85, 60-86, 6-91 and 2-98;

WHEREAS, the Board of County Commissioners desires to amend the payment provisions for collecting a Minimum User Fee and the provision for the collection of Capital Connection Fees, and redefines the process of Allocation assignments as a result of the annual audit, and authorize the transfer of Allocation between businesses under common ownership;

WHEREAS, the Board of County Commissioners is authorized by the *Environment Article* of the Maryland Annotated Code to establish such rules as circumstances require for the allocation of water and sewerage treatment capacity;

WHEREAS, after due notice was published, the Board of County Commissioners conducted a public hearing on September 27, 2016, at which time the proposed amendments were discussed, staff's recommendations were considered, and public comment was solicited;

WHEREAS, after considering the evidence which had been presented at the public hearing regarding the proposed text amendments, and in furtherance of the public health, safety and welfare, the Board of County Commissioners has determined that the revised Allocation policy is consistent with existing laws and regulations and, further, finds that it is in the best interest of the citizens of the County to repeal Resolution Nos. 29-15 and 02-14 and adopt the "Calvert County Water & Sewerage Allocation Policy," as set forth herein as well as the data on flow estimates set forth in Exhibit A, attached hereto and made a part hereof.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Calvert County, Maryland, that Resolution Nos. 29-15 and 02-14 are hereby repealed and that the following policy and procedures are hereby designated as the "Calvert County Water & Sewerage Allocation Policy" effective upon the Effective Date of this Resolution.

BE IT FURTHER RESOLVED by the Board of County Commissioners of Calvert County, Maryland, that this Water & Sewerage Allocation Policy applies to all connections to County-owned water and sewerage facilities. This policy provides procedures for allocating and procuring public water and sewerage capacity (hereinafter referred to jointly and severally as "Allocations").

- 1. Application and Number of EDUs.** An estimated construction/hook-up schedule and utility plan for any recorded residential, commercial, or industrial development, including any single lot of record, shall be submitted where a connection is proposed to the Calvert County Water or Wastewater system. The Chief of the Water & Sewer Division (hereinafter referred to as the "Chief") shall determine the number of Equivalent Dwelling Units ("EDUs") to be allocated to a project based upon detailed project

drawings submitted and the following guidelines:

- a. Every applicant requesting an Allocation must agree to employ the use of strict water conservation devices as detailed in the Calvert County Water Conservation Plan in effect at the time the Allocation is requested.
- b. The calculation of the number of Allocations required for any development or redevelopment shall be based on flow estimates set forth in Exhibit A hereto, incorporated herein by reference. Notwithstanding the foregoing, Allocations may be adjusted upon the request of the applicant and approval of the Chief if the Chief finds, in his/her sole and absolute discretion, that proposed water conservation measures will result in water conservation above that projected in the Calvert County Water Conservation Plan and, if approved, may be subject to conditions or revocation of approval of deviation from the estimate calculated using flow data set forth in Exhibit A if such projected conservation is not achieved.

2. Availability and Allocation of EDUs. The Chief shall maintain a registry of available water and sewerage capacity for each Calvert County Water or Wastewater system. Requests for water or sewerage capacity will be considered in accordance with the following:

- a. All requests shall be evaluated and, if approved, allocated on a four-year need basis, not to exceed Seventy-Five (75) capital connections per year per development without the prior written approval of the Director of Public Works;
- b. All requests will be considered on a first come, first served basis, based on the date of receipt by the Water & Sewerage Division of the written request.
- c. Applications may only be approved if sufficient taps are available in the system to which the applicant seeks to connect and existing infrastructure, including, without limitation, lines, pumps, lift stations, etc., as determined by the Chief.
- d. In determining the availability of taps, the Chief shall deduct from the capacity of the system:
 - i. All existing connections;
 - ii. Taps deemed reasonably necessary for peak flow rates that may result in overflows or insufficient fire-flow capacity, or such other and similar purposes;
 - iii. Eighteen (18%) percent of the available allocation, as may be modified by the State from time to time, shall be set aside to provide service to those projects which are deemed necessary for the economic growth of the County, or deemed necessary for the routine function of government (taps required for the Calvert County Detention Center are not to be deducted

from this set aside allocation);

- iv. Fifteen (15%) percent of the available Allocations from a County-operated water or wastewater treatment facility, as may be modified by the State from time to time, shall be set aside to provide service to residential housing for rental or ownership by residents having an income below 80 percent of the median family income for Calvert County; and
 - v. All requests received prior to the subject request being considered.
- e. In calculating the number of taps allocated to all applications submitted prior to the subject application, (Paragraph 2(d)(v), above), the Chief may deduct that value calculated based on capital connections using data on flow estimates set forth in Exhibit A hereto, regardless whether any reduction in taps may have been approved as allowed by Paragraph 2(d), above.
- f. In general, no additional Allocations can be granted until the approved Allocation is exhausted or project is under construction. The Chief may consider any evidence presented by involved parties to the accuracy of the originally assigned Allocation and may reassign Allocation as may be appropriate.
- g. Any request for water or sewer taps shall expire if:
- i. Within one year of an approved application, a utility plan for any recorded residential, commercial, or industrial development, including any single lot of record, has not been resubmitted that utilizes the approved taps;
 - ii. A residential Allocation, not part of an approved subdivision, not utilizing the Allocation within four (4) years of the date of approving an Allocation; or
 - iii. Surrender or loss of an allocation as prescribed in Paragraph 3, below.

3. Capital Connection Charge. A capital connection charge shall be collected for each Allocation as follows:

- a. For a project for which a phasing plan has not been approved, the approved estimated Allocation(s) shall be reserved by the Chief for so long as the following criteria are met:
 - i. Applicant shall pay not less than one-third (1/3) of the capital connection charge for all Allocations for the project not later than thirty (30) days from the Chief's determination of the number of Allocations required for the project;
 - ii. The unpaid balance of the capital connection charge shall be paid the earlier of: (1) four (4) years from the date the subdivision or site plan receives final approval; or (2) prior to receipt of Use and Occupancy permit utilizing an Allocation so reserved;
 - iii. The applicant may relinquish any Allocation(s) prior to the date which is four (4) years from the date the first one-third (1/3) payment was made

- and shall receive a full refund minus a restocking fee of 20% of the amount already collected per Allocation; and
- iv. Failure to make any payment when due shall result in the surrender of the capital connection charge paid pursuant to Paragraph 3(a)(i), automatic revocation of all Allocation(s), and removal of the project from the Allocation ranking and request list. A written request may be made to the Director of Public Works and Chief for a one (1) year extension or 50% refund of capital connection charge paid per Paragraph 3(a)(i).
- b. For a project for which a phasing plan has been approved, the approved estimated Allocation(s) for all phases shall be reserved by the Chief for so long as the following payment criteria are met:
- i. Applicant shall pay not less than one-third (1/3) of the capital connection charge for all Allocations for the project not later than thirty (30) days from the Chief's determination of the number of Allocations required;
 - ii. The unpaid balance of the capital connection charge for each phase shall be paid the earlier of: (1) four (4) years from the date the subdivision or site plan for the particular phase receives final approval; or (2) prior to receipt of each Use and Occupancy permit within the phase;
 - iii. The applicant may relinquish any Allocation(s) prior to the date which is four (4) years from the date the first one-third (1/3) payment was made and shall receive a full refund minus a restocking fee of 20% of the amount already collected per Allocation;
 - iv. Allocations for subsequent phases shall continue to be reserved so long as each phase begins no later than one (1) year from completion of the prior phase;
 - v. Failure to make any payment when due shall result in the surrender of the capital connection charge paid pursuant to Paragraph 3(b)(i), automatic revocation of all Allocation(s), and removal of the project from the Allocation ranking and request list. A written request may be made to the Director of Public Works and Chief for a one (1) year extension or 50% refund of capital connection charge paid pursuant to Paragraph 3(b)(i).
- c. Notwithstanding the foregoing, the Chief may defer collection of the capital connection charge of all but one of the Allocations required by Exhibit A hereto for the development or redevelopment of a non-residential, Eligible Business, as hereinafter defined, upon the request of an applicant and for good cause shown. If a request for deferral is approved:
- i. The Chief shall indicate the use of all Allocations required by Exhibit A hereto upon the registry of available Allocations for the receiving wastewater treatment plant and capacity of the applicable potable water supply system;

- ii. The applicant and all lien-holders of the subject property shall execute an Allocation Agreement constituting a first-priority lien against the subject property and in a form recordable in Land Records and approved by the Chief and the County Attorney that shall run with the land and be binding upon the current owner(s) and all subsequent purchasers for the duration of the Allocation Agreement and indicating the number of Allocations deferred, the time period for reconciling the final number of allocations required for the Eligible Business and such other terms deemed necessary and appropriate;
- iii. Cessation of the Eligible Business at any time during the deferment period shall accelerate and make immediately due and payable the capital connection charges for the deferred Allocations;
- iv. During the deferment period, the applicant shall still be required to pay the quarterly base rate associated with all Allocations required by Exhibit A hereto, including, without limitation, the quarterly base rate associated with the deferred Allocation(s). Failure to make such payments when due shall accelerate and make immediately due and payable the capital connection charges for all deferred Allocations;
- v. Not later than twenty-four (24) months from the execution of an Allocation Agreement, the Chief shall inform the Applicant of the final number of Allocations required based upon the peak flow of the connected Eligible Business;
- vi. Notwithstanding the provisions of sub-part (v), immediately above, the applicant may request the Chief make a final determination of the total number of Allocation required at any time prior to Twenty-four (24) months from the execution of an Allocation Agreement; and
- vii. Financial reconciliation of the final determination of the number of Allocations shall be at the capital connection fee in effect at the time the final determination is made, if made by the Chief, or at the capital connection fee in effect at the time of request if made by the applicant.
- viii. If payment of the final reconciliation is not received within 30 days of the date of the final determination, late payment interest in the amount of five (5%) percent per annum shall be added.
- ix. In the event the final reconciliation payment is not received within 60 days of the date of the final determination, the Chief may pursue all available remedies, including, without limitation, disconnection of service.

4. Assignment or Transfer of EDUs.

- a. Notwithstanding any other provision of this Resolution to the contrary, including, without limitation, the restriction upon transfer set forth above, upon approved written request by the owner or authorized agent, to the Director of Public Works, the transferor (being the project or customer account for which a water/sewer tap has been Allocated) of any acquired, unexpired and not currently past due

allocation, which was deemed in excess during the annual audit pursuant to Paragraphs 5(b) and 5(h), may transfer Allocations so long as the transferee (being the receiving project or customer account) is: (1) under common ownership of no less than 10%; (2) the project has been approved by the Chief; (3) is mapped for public water or sewer within the Comprehensive Water and Sewer Plan in effect upon the adoption of this Resolution; and (4) the transferring and the receiving water and sewer service districts are properly adjusted to reflect accurate inventories related to approved transfers. Base rate adjustments due to the transfer of allocations will be reflected on the first quarterly bill following the agreement to transfer EDU Allocations.

- b. Notwithstanding the foregoing, only one (1) application to transfer Allocations may be made per project or commercial account. The transferor of EDUs may not at a later date become the recipient of transferred EDUs and the transferee of EDUs may not at a later date transfer EDUs. Any future EDUs needed by either party shall be purchased at the current rate.
- c. It shall be at the discretion of the Chief and Director of Public Works if other transfer agreements are to be considered.

5. Redetermination of EDUs. With the exception of the applicants on a valid deferred Allocation Agreement, the Chief reserves the right to review and adjust account EDU Allocations only once during a County fiscal year; not including periods reflecting when a new water & sewer application is submitted.

- a. In this section, "peaked average usage" means the quarterly average number of gallons of water or sewer usage during four (4) or more quarters, times the peaking factor of 1.2. At the discretion of the Chief, specific quarters of consumption may be excluded in determining the quarterly average number of gallons when unique circumstances exist that may affect this determination.
- b. The number of EDU Allocations required, determined as one (1) EDU per two hundred (200) gallons per day, for a connection may be adjusted if a change in the original water and sewer application is requested, or during the annual customer account audit conducted during the first quarter of the fiscal year. The Chief will consider the need to adjust EDU Allocations during the annual customer account audit only if there is sufficient evidence that a user's peak average usage is below 80% of the current EDU Allocation or above 120% of the current EDU Allocation.
- c. If it is determined that there is a need to adjust EDU allocations pursuant to Paragraph 5(b) or 5(h), the Chief will provide written notification to the owner of subject property of the determination along with rate adjustments and capital connection fee charges or refunds pursuant to Paragraphs 5(d) through 5(g).

- d. Base rate adjustments due to increases in EDU Allocations will be reflected on the first quarterly billing cycle of the next calendar year.
 - e. Capital Connection Fees due to increases in EDU Allocations reflecting the current rate will be payable quarterly over a period of eight (8) quarters or as a single onetime payment.
 - f. Base rate adjustments due to decreases in EDU Allocations will be reflected on the first quarterly billing cycle following written notification from the owner of subject property electing to surrender the excess Allocations.
 - g. Capital Connection Fees refundable due to decreases in EDU Allocations reflecting one half the rate at the time of original Allocation purchase will be refunded as an account credit over a period of up to twenty (20) quarters or as a single onetime payment following written notification from the owner of subject property electing to surrender the excess Allocations.
 - h. For a period of one (1) year, effective the date of this Resolution, a project or customer account that purchased EDU Allocations prior to the adoption of Exhibit A: Calvert County Water and Sewerage Division Table of Equivalent Dwelling Units (EDU's) on December 17, 2013, may request in writing to the Director of Public Works to undergo a onetime Capital Connection Analysis, based on Exhibit A, for redetermination of EDU Allocations. Quarterly base bill adjustments and Capital Connections Fees charged or refunded will occur pursuant to Paragraphs 5(d) through 5(g), above.
 - i. It shall be at the discretion of the Chief and Director of Public Works if other EDU redetermination agreements are to be considered.
- 6. Eligible Business.** For the purposes of this Policy, an "Eligible Business" meets the following minimum capital investment requirements whereby the cost of land, fixtures, furniture, or capital connections are not to be included in the calculation:
- a. New Construction - \$500,000.00 (actual construction costs);
 - b. Renovation of Existing Building - \$250,000.00 (actual construction costs); or
 - c. Projects not meeting the minimum requirements of sub-paragraphs (a) or (b), immediately above, may be submitted to the Board of County Commissioners, or its designee, for consideration.

BE IT FURTHER RESOLVED by the Board of County Commissioners of Calvert County, Maryland that, in the event any portion of this Resolution is found to be unconstitutional, illegal,

null or void, it is the intent of the Board of County Commissioners to sever only the invalid portion or provision, and that the remainder of the Resolution shall be enforceable and valid.

BE IT FURTHER RESOLVED by the Board of County Commissioners of Calvert County, Maryland that the foregoing recitals are adopted as if fully rewritten herein.

BE IT FURTHER RESOLVED by the Board of County Commissioners of Calvert County, Maryland that this Resolution shall be effective upon recordation without publication of a fair summary.

DONE, this 27th day of September, 2016 by the Board of County Commissioners of Calvert County, Maryland.

Aye:

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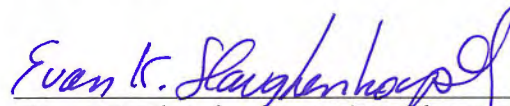

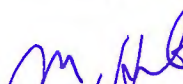

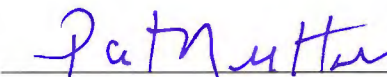
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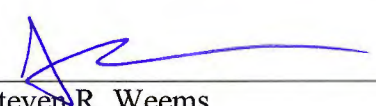
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Absent/Abstain:

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ATTEST:

BOARD OF COUNTY COMMISSIONERS OF
CALVERT COUNTY, MARYLAND
Maureen L. Frederick, Clerk
Evan K. Slaughenhaupt, PresidentApproved for form and legal
sufficiency by:
Tom Hejl, Vice-President
Mike Hart
John B. Norris, III, County Attorney
Pat Nutter

Resolved for Record.....9/28....., 2016
at 10:47 o'clock.....A.M. Same day.....
recorded in Liber KPS No. 50
Folio 168.....COUNTY COMMISSIONERS
ORDINANCES AND RESOLUTION.

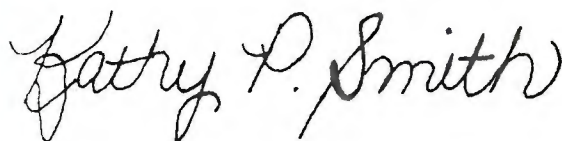


Exhibit A

CALVERT COUNTY WATER & SEWERAGE DIVISION
TABLE OF EQUIVALENT DWELLING UNITS (EDU'S)

CLASSIFICATIONS	UNITS	GPD/UNIT
RESIDENTIAL		
Single Family Dwelling	Each	200
Townhouse	Each	200
Trailer	Each	200
Garden Apartment/Unit	Each	200
High-rise Condominium/Unit	Each	200
INSTITUTIONAL		
Elementary School	Capita	4
Middle School	Capita	6
High School	Capita	8
College	Capita	8
Child Day Care/Nursery School	Capita	6
Hospital	Beds	125
Nursing/Group Home/Assisted Living	Beds	125
COMMERCIAL		
Assembly/Social Hall (Meeting Rooms for rent i.e. Elks, Moose, etc.)	Gross S.f.	0.07
Auto Dealership	Gross S.f.	0.08
Bakery (No Seating)	Gross S.f.	0.15
Bank	Gross S.f.	0.04
Bar & Tavern (No Restaurant/Food Permit)	Seats	5
Barber Shop	Gross S.f.	0.2
Beauty Salon	Gross S.f.	0.35
Bowling Alley	Lane	100
Car Wash (Self Service Bay)	Bay	250
Car Wash (Recycled Bay)	Bay	2,500/bay
Car Wash (Non-Recycled Bay)	Bay	4,000/bay
	250 gpd for the	250 gpd for the
Church (Worship Center add for addition uses)	Worship Center	Worship Center
Drug Store (Not to exceed 2 EDU's)	Gross S.f.	0.13
Food Carry-Out (No Indoor Seating)	Gross S.f.	1
Funeral Home (with Embalming Service)	Gross S.f.	0.31
Funeral Home (without Embalming Service)	Gross S.f.	0.02
Garage (Vehicle Repair)	Gross S.f.	0.014
Gas/Service Station (No Food Service)	Gross S.f.	0.04
Gas Station/Convenience Store (With Food Service)	Gross S.f.	0.35
Health Club/Public Park (based on fixture table)	Fixture Table	Fixture Table
Hotel/Motel	Rooms	63

Hotel/Motel Efficiency Units (with Kitchen Facilities, Extended Stay	Rooms	125
Laundry/Dry Cleaners	Gross S.f.	0.31
Laundromat	Gross S.f.	2
Library	Gross S.f.	0.03
Marina	Slip	25
Office (Dental)	Gross S.f.	0.13
Office (Medical)	Gross S.f.	0.13
Office (General)	Gross S.f.	0.03
Post Office (Not to exceed 2 EDU's)	Gross S.f.	0.09
Racket/Tennis Club	Fixture Table	Fixture Table
Restaurant	Seats	13
Retail Store	Gross S.f.	0.03
Shopping Center/Strip Mall (mixed use)	Gross S.f.	0.18
Swimming Pool 500 gpd minimum or based on fixture table	500 gpd minimum or Fixture Table whichever greater	500 gpd minimum or Fixture Table whichever greater
Supermarket	Gross S.f.	0.05
Theatre/Sports Arena/Recreational Facility (with Food)	Seats	5
Theatre/Sports Arena/Recreational Facility (without Food)	Seats	1
Warehouse	Gross S.f.	0.015

TABLE OF FIXTURES FOR USE WHERE THE SIZE OF THE FACILITY MAY NOT BE PROPORTIONAL TO THE FLOWS

TYPE OF FIXTURE	GALLONS PER DAY PER FIXTURE
Shower	200
Bathtub	300
Lavatory (Toilet & Washbowl)	100
Toilet	98
Urinal	65
Sinks	33

Determination of EDU's for proposed uses not listed in this document will be determined on a case-by-case basis by the Water & Sewerage Division Chief. Notwithstanding the guiding factors listed elsewhere in this table, the Division Chief at his/her discretion, may establish flow projection for specific nonconforming properties on a case-by-case basis.